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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 STUART S. PRESSLY,) Case No. 07-CV-2315-J (JMA)
12)
13) Petitioner,)
14) v.) ORDER REQUIRING RESPONSE TO
15) F.B. HAWS(Warden),) PETITIONER'S MOTION TO STAY
16) Respondent.) PROCEEDINGS PENDING EXHAUSTION
17) OF STATE COURT REMEDIES
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18 On December 10, 2007, Petitioner filed a Petition for Writ
19 of Habeas Corpus in this Court. [Doc. No. 1.] On December 18,
20 2007, the Court issued an Order requiring a response from
21 Respondent. [Doc. No. 3.] On May 6, 2008, Respondent filed an
22 Answer to the Petition. [Doc. No. 11.] On May 21, 2008 (nunc
23 pro tunc to May 19, 2008), Petitioner filed a Motion to stay
24 these proceedings while he exhausts new claims raised in state
25 habeas corpus proceedings ("State Petition"). [Doc. no. 13]

26 The State Petition appears to contain the following claims
27 which are not currently raised in Petitioner's federal Petition:

28 (1) that there was insufficient evidence of first degree

1 burglary and of a prior serious felony;

2 (2) that trial counsel was constitutionally ineffective for
3 failing to object to Petitioner's shackling during
4 trial;

5 (3) that the trial court improperly allowed reference to
6 irrelevant evidence that was unfairly prejudicial;

7 (4) that the judge, and not the jury, made findings of fact
8 that enhanced Petitioner's sentence; and


9 (5) that Petitioner's prior federal convictions were
10 improperly counted.

11 (State Petition at 3-7.) The Motion requests that the Court stay
12 these proceedings while Petitioner exhausts state remedies as to
13 these additional claims and then permit Petitioner to amend the
14 Petition to include them.

15 Accordingly, **IT IS HEREBY ORDERED** that the deadline for
16 filing of Petitioner's Traverse set forth in the Court's April
17 22, 2008 Order [doc. no. 8] is hereby VACATED. Respondent shall
18 file a response to Petitioner's Motion on or before **July 7, 2008**.
19 Petitioner shall file a reply on or before **August 18, 2008**. In
20 his reply, Petitioner shall address whether his request for a
21 stay meets the requirements set forth in Rhines v. Weber, 544
22 U.S. 269 (2005).

23 **IT IS SO ORDERED.**

24 DATED: May 30, 2008

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26 Jan M. Adler
27 U.S. Magistrate Judge
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